IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

MONDAY, THE 19TH NOVEMBER 2007 / 28TH KARTHIKA 1929

WP(C).No. 34019 of 2007(Y)

PETITIONER:

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1. NAND KISHORE, `PRASADAM', CONVENT ROAD, NEYYATTINKARA, THIRUVANANTHAPURAM.

2. AMRUTHA SAKETH, `THULASI', P.O.PILATHARA, KANNUR-670 501.

BY ADV. SRI.B.JAYASURYA

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY CHIEF SECRETARY, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. THE SECRETARY FOR HIGHER EDUCATION, GOVT. SECRETARIAT, THIRUVANANTHAPURAM.

3. THE COMMISSIONER FOR MEDICAL/ ENGINEERING EXAMINATIONS, HOUSING BOARD BUILDING, THIRUVANANTHAPURAM.

4. THE SECRETARY, MEDICAL COUNCIL OF INDIA, POCKET 14, SECTOR 8, DWARAKA, NEW DELHI-110 075.

BY ADV. SRI.ALEXANDER THOMAS, SC, MCI
GOVERNMENT PLEADER SRI. I.V. PRAMOD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J

W.P.(C). 34019/2007

Dated this the 19th day of November, 2007

JUDGMENT

The petitioners are scheduled caste candidates aspiring for admission for MBBS/BDS. Ext.P2 is the prospectus which shows that the separate minimum marks is necessary. Petitioner had approached this Court by filing W.P.(C).23096/2007 and that writ petition was dismissed by Ext.P3. Now the petitioners are challenging Ext.P5, the Government Order issued pursuant to Ext.P4 judgment of this Court.

2. As can be seen from Exts.P4 and P5, though 37 seats were reserved for the scheduled tribe students, only one had scored the minimum marks that was prescribed. Taking this into account, this Court directed that the Government will consider whether the minimum prescribed could be relaxed so that scheduled tribe students could take advantage of the reservation of seats in their favour. Accordingly, Ext.P5 Government order

has now been issued directing that separate minimum of 40% will not be necessary for scheduled tribe students.

3. On going through Ext.P5, I am not in a position to conclude that extension of the same benefit to the petitioners' would make out a case of discrimination. First of all, petitioners are not scheduled tribe students, who alone are the beneficiaries of Ext.P5. As already stated, there is a peculiar background for issuing Ext.P5 and that is, while 37 seats were reserved for ST students, only one had come out successful. This does not in any way come to the rescue of the petitioners who are scheduled caste candidates, who did not qualify in the entrance examination. Secondly there is no case for anyone that enough number of SC candidates did not qualify in the entrance examination, as in the case of ST candidates.

4. Both the petitioners are SC candidates and they belong to a separate class and Ext.P5 is intended to confer the benefit only to the ST candidates.

5. I am not in a position to accept the case of the petitioner that they have been discriminated or that they are entitled to similar treatment.

Writ petition fails and the same is dismissed.

ANTONY DOMINIC
Judge

mrcs